

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6074

BILL NUMBER: SB 47

NOTE PREPARED: Nov 15, 2007

BILL AMENDED:

SUBJECT: Death Penalty.

FIRST AUTHOR: Sen. Waterman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill allows certain incarcerated persons who have been sentenced to: (1) at least 200 years imprisonment; (2) an executed sentence of life imprisonment; or (3) life imprisonment without parole; to request the imposition of a death sentence.

Effective Date: July 1, 2008.

Explanation of State Expenditures: This bill applies to offenders who have a sentence of at least 200 years or a sentence of life imprisonment without parole. Based on the offenders in Department of Correction (DOC) facilities on October 22, 2007, 297 offenders were identified who would be eligible under this bill to petition to be put to death.

When the offender is executed, the State Police will incur overtime costs for providing security during the execution. As an example, Gerald Bivins was sentenced to death for murder in 1992. He waived the remainder of his appeals to federal court and was executed by lethal injection on March 14, 2001. For his execution, the State Police reported spending \$4,012 for 160.5 overtime hours.

The Department of Correction also reports a significant increase in expenditures for the time leading up to the execution. DOC made the following estimates of costs incurred during the execution process based on the executions of Gerald Bivins in March 2001 and James Lowery in June 2001.

Overtime Costs Associated with an Execution. (Based on Executions for James Lowery and Gerald Bivins)	
Overtime for all ranks, administrative, and clerical staff on day of execution	\$12,155
Chemicals, funeral arrangements, radios, food, and physician services relating to execution	\$3,335
Staff overtime for weekly practices relating to scheduled execution	\$4,355
Central office travel expenses (mileage, hotel, per diem)	\$743
Total costs:	\$20,588

Besides the costs associated with specific executions, DOC reports monthly overtime practices costing \$17,421 that are not related to particular scheduled executions.

These added costs would have to be compared to the continued costs of housing, medical care, food, clothing, and programming for these offenders as they continue to age. The average annual expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.)

Explanation of State Revenues:

Explanation of Local Expenditures: Offenders electing to petition for the death penalty would petition in either the circuit or superior court in the county in which the offender is incarcerated. Counties would incur added costs for hearings and for psychiatrists or psychologists to examine the offender. Costs for examination and testimony will depend on the length of the hearings. The prosecuting attorney in the county in which the correctional facility is located would be responsible for representing the state at all hearings.

The 297 offenders who would be eligible for electing a death sentence are located in 12 facilities in nine counties across the state.

County	Facility	Offenders
Hendricks	Plainfield Correctional Facility, Reception Diagnostic Center	5
Henry	New Castle	10
Laporte	Indiana State Prison, Maximum Control Facility	112
Madison	Pendleton Correctional Facility, Correctional Industrial Complex	69
Marion	Indiana Women's Prison	2
Miami	Miami Correctional Facility	14
Parke	Rockville Correctional Facility	5
Putnam	Putnamville Correctional Facility	2
Sullivan	Wabash Valley Correctional Facility	78
Grand Total		297

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Indiana State Police.

Local Agencies Affected: Trial courts and prosecuting attorneys in Hendricks, Henry, LaPorte, Madison, Marion, Miami, Parke, Putnam, and Sullivan Counties.

Information Sources: Department of Correction.

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